

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Steven Michael Cribb,)	C/A No. 2:12-2073-JFA-BHH
)	
Petitioner,)	
v.)	ORDER
)	
United States of America,)	
)	
Respondent.)	
_____)	

The *pro se* petitioner, Steven Michael Cribb, is an inmate at the Federal Correctional Institution in Estill, South Carolina. He was originally sentenced in the Middle District of North Carolina in 2010. He brings this action under 28 U.S.C. § 2241, claiming that he is actually innocent of being a career criminal in light of *United States v. Simmons*, 649 F.3d 237 (4th Cir. 2011).

The Magistrate Judge assigned to this action¹ has prepared a Report and Recommendation and opines the § 2241 petition is moot because the petitioner has received the relief he requested. The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation. The petitioner was advised of his right to respond to the Report and Recommendation, but as of the date of this

¹ The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b)(1).

order he has not filed objections and the time within which to do so has now expired.

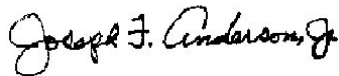
The respondent notes that on February 7, 2013, a judgment vacating the petitioner's criminal judgment pursuant to 28 U.S.C. § 2255 was entered in the Middle District of North Carolina. Thus, the issue before this court is moot.

After carefully reviewing the applicable laws, the record in this case, the Report and Recommendation, this court finds the Magistrate Judge's recommendation fairly and accurately summarizes the facts and applies the correct principles of law and it is incorporated herein by reference.

Accordingly, this action is dismissed as moot. The Clerk shall docket the respondent's motion to dismiss as moot.

IT IS SO ORDERED.

April 9, 2013
Columbia, South Carolina



Joseph F. Anderson, Jr.
United States District Judge